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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,969	09/26/2003	Keith Homer Baker	7836XDCL	7274

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EXAMINER	
TSOY, ELENA	

ART UNIT	PAPER NUMBER
1762	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/671,969.	BAKER ET AL.	
	Examiner	Art Unit	
	Elena Tsoy, Ph.D.	1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *76-119* is/are pending in the application.

4a) Of the above claim(s) *77-82 and 94-118* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *76,83-93 and 119* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

Amendment filed on July 5, 2007 has been entered. New claim 119 has been added. Claims 1-119 are pending in the application. Claims 77-82, 94-118 are withdrawn from consideration as directed to a non-elected invention.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Rejection of claims 76, 83-86, and 89-93 on the ground of nonstatutory double patenting over claims 1, 2, 9-13 of U. S. Patent No. 6,866,888 has been withdrawn due to filing terminal disclaimer.

3. Rejection of claims 87-88 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 9-13 of U. S. Patent No. 6,866,888 in view of Watanabe (JP 10276961) has been withdrawn due to filing terminal disclaimer.

4. Provisional rejection of claims 76, 83-93 on the ground of nonstatutory double patenting over claims 13, 15-16, 21, 23 of copending Application No. 10/862,706 has been withdrawn due to filing terminal disclaimer.

5. Provisional rejection of claims 76, 83-93 on the ground of nonstatutory double patenting over claims 1-3, 5-6, 12, 14, 18, 22-23, 25-29 of copending Application No. 10/862,707 has been withdrawn due to filing terminal disclaimer.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Rejection of claims 76, 83-84, 89, 93 under 35 U.S.C. 102(b) as being anticipated by Ishikawa et al (US 5306435) has been withdrawn due to amendment.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Rejection of claims 76, 83-87, 89-93 under 35 U.S.C. 103(a) as being unpatentable over Hartshorn (WO 9532268) in view of Murch et al (US 5749924) has been withdrawn due to amendment.

10. Rejection of claims 76, 83-87, 90-93 under 35 U.S.C. 103(a) as being unpatentable over Murch et al (US H1513) in view of Murch et al '924 has been withdrawn due to amendment.

11. Rejection of claims 86-88 under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al/Hartshorn in view of Murch et al '924/Murch et al '513 in view of Murch et al '924/, further in view of Watanabe (JP 10276961) has been withdrawn due to amendment.

12. Rejection of claim 89 under 35 U.S.C. 103(a) as being unpatentable over Murch et al '513 in view of Murch et al '924, further in view of Hartshorn has been withdrawn due to amendment.

13. Rejection of claims 90-92 under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al has been withdrawn due to amendment.

14. Rejection of claims 90-92 under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al/Hartshorn in view of Murch et al '924/Murch et al '513 in view of Murch et al '924/, further in view of Yoshioka (JP 09271597) has been withdrawn due to amendment.

15. Claims 76, 83-87, 89-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al (US 5489389).

Ritter et al teach that shoes (See column 12, lines 26) that are made of oil treated mineral-tanned leather so that the leather has oil components fixed on residual tanning agent (See column 1, lines 14-16) can be washed in domestic washing machine using a phosphate-free laundry detergent such as Persil®) (claimed cleaning composition) (See column 12, lines 22-27) without any significant loss of quality (See column 1, lines 28-29). Although Ritter et al are silent about

tanning agent being chromium, it is well known in the art that *chromium* salt is generally used for making tanned leather.

It is the Examiner's position that the detergent in Ritter et al delivers a calcium/magnesium removal agent to the shoes because all detergents including Persil® contain a calcium/magnesium removing agent to effectively remove dirt and soil that normally contain calcium and magnesium.

It is also the Examiner's position that the detergent in Ritter et al does not remove significant levels of chromium from the leather because the shoes do not significantly lose their quality after washing.

As to claim 89, Ritter et al fail to teach that a cleaning composition is applied to shoes prior to washing. However, it is well known in the art to apply a detergent directly to stains before machine washing.

As to claim 90-92, Ritter et al fail to teach that shoes are placed into a flexible bag. However, it is well known in the art that articles made of delicate fabric should be washed in a flexible bag to prevent damage to the fabric.

16. Claims 76, 83-87, 89-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al in view of Wu et al (CN 1052685A).

Ritter et al are applied here for the same reasons as above. Ritter et al fail to teach that the leather shoes are washed using a composition which delivers calcium/magnesium removal agent without removing significant levels of chromium from the natural leather.

Wu et al disclose a casual leather shoes *decontamination* agent (claimed cleaning composition) comprising surfactant, lustring agent, colloid, moisture retainer, and deionised water (claimed gel), that removes calcium and magnesium (See title).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a water-based decontamination agent of Wu et al for washing in water leather shoes in Ritter et al since Wu et al teaches that the decontamination agent is suitable for decontaminating of leather shoes.

As to the chromium, it is well known in the art that generally chromium is used for making tanned leather. It is the Examiner's position that the decontamination agent of Wu et al does not remove significant levels of chromium from the tanned leather because Wu et al does not teach that the decontamination agent contains a chromium removing agent.

As to claim 86, if it could be argued that the decontamination agent of Wu et al is not a gel, it would be obvious to one of ordinary skill in the art at to formulate a detergent composition as gel since it is well known in the art to formulate a detergent composition as gel.

As to claim 89, it is well known in the art to apply a detergent directly to stains before machine washing.

As to claim 90-92, it is well known in the art that articles made of delicate articles should be washed in a flexible bag to prevent damage to the fabric.

17. Claims 76, 83-87, 89-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al (US 5306435) in view of Wu et al.

Ishikawa et al are applied here for the same reasons as set forth in paragraph 7 of the Office Action mailed on 1/05/2007.

As to claim 76, Ishikawa et al teach that shoes of natural leather such as *tanned* leather and dyed leather that are treated with a treating agent retain flexibility, and an excellent dimensional stability even after repeated washing in water (See column 12, lines 5-17).

Ishikawa et al fail to teach that the leather shoes are washed using a composition which delivers calcium/magnesium removal agent without removing significant levels of chromium from the natural leather.

Wu et al disclose a casual leather shoes *decontamination* agent (claimed cleaning composition) comprising surfactant, lustring agent, colloid, moisture retainer, and deionised water (claimed gel), that removes calcium and magnesium (See title).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a water-based decontamination agent of Wu et al for washing in water leather shoes in Ishikawa et al since Wu et al teaches that the decontamination agent removes calcium and magnesium leather shoes.

As to the chromium, it is well known in the art that generally chromium is used for making tanned leather. It is the Examiner's position that the decontamination agent of Wu et al does not remove significant levels of chromium from the tanned leather because Wu et al does not teach that the decontamination agent contains a chromium removing agent.

As to claim 85, 87, since Ishikawa et al do not limit their teaching to hand washing, it is the Examiner's position that repeated washing in Ishikawa et al includes machine wash with addition of the detergent with applicator.

As to claim 86, if it could be argued that the decontamination agent of Wu et al is not a gel, it would be obvious to one of ordinary skill in the art at to formulate a detergent composition as gel since it is well known in the art to formulate a detergent composition as gel.

As to claim 89, Ishikawa et al fail to teach that a cleaning composition is applied to shoes prior to washing. However, it is well known in the art to apply a detergent directly to stains before machine washing.

As to claim 90-92, Ishikawa et al fail to teach that shoes are placed into a flexible bag. However, it is well known in the art that articles made of delicate articles should be washed in a flexible bag to prevent damage to the fabric.

18. Claims 86-92, and 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al /Ritter et al in view of Wu et al /Ishikawa et al in view of Wu et al, further in view of Watanabe (JP 10276961).

The cited prior art fails to teach that a cleaning composition is in the form of gel (Claim 86) and is applied to shoes by brush (Claims 87-88) before washing (Claim 89).

Watanabe teaches that a detergent may be formulated as a gel and applied by a brush or made into water microparticles and pressurized to be sprayed to a shoe for washing (See Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formulated a cleaning composition of the cited prior art as gel and applied to shoes by brush before washing, as taught by Watanabe.

As to claim 119, it is the Examiner's position that a gel applied to the shoes by brush and placed into a flexible bag would be released into water during the was cycle.

19. Claims 90-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al /Ritter et al in view of Wu et al /Ishikawa et al in view of Wu et al, further in view of Yoshioka (JP 09271597).

The cited prior art fails to teach that shoes are placed into a flexible bag. However, Yoshioka teaches that shoes can be washed in flexible bags to prevent damage to shoes (See Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed shoes in flexible bags before washing in cited prior art with the expectation of preventing damage to shoes, as taught by Yoshioka.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5482644 to Nguyen et al shows that a chelating agent in a detergent binds and removes traces of heavy metals as **chromium** (See column 6, lines 26-28).

Response to Arguments

21. Applicant's arguments with respect to claims 76, 83-93, and 119 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Thursday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ELENA TSOY
PRIMARY EXAMINER

Elena Tsoy, Ph.D.
Primary Examiner
Art Unit 1762

August 10, 2007